



**THE ATTORNEY GENERAL  
OF TEXAS**

September 20, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

Ms. Polly P. Lewis  
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Attorneys for the City of Seabrook  
17044 El Camino Real  
Clear Lake City  
Houston, Texas 77058

Dear Ms. Lewis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6427; this decision is OR89-300.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The City of Seabrook Police Department received a request for information about the murder of a homosexual allegedly murdered by a man or men who were living in his home and with whom the victim supposedly had sexual relationships. The records contain facts about the sexual relationship between the victim and the suspects. You suggest that privacy principles protect the records from required public disclosure. You do not claim that any other exceptions apply.

Section 3(a)(1) protects:

information deemed confidential by law,  
either Constitutional, statutory, or by  
judicial decision.

Section 3(a)(1) protects information deemed confidential by statute. Records relating to juveniles are deemed

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confidential under the Texas Family Code. See, e.g., Open Records Decision No. 181 (1977).

Section 3(a)(1) also protects information the release of which would violate privacy rights. Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668, 687 (Tex. 1976), cert. denied, 430 U.S. 930 (1977). Very little of the information at issue meets the tests for privacy under Texas law. The information must be highly intimate and embarrassing such that a reasonable person would object to its release and the information must be of no legitimate public concern. Id. at 683-85. Although some of the information at issue is highly intimate, the public has a legitimate interest in the investigation and prosecution of crimes. Because the right of privacy lapses upon death, Attorney General Opinion No. 229 (1984), the privacy rights of the victim are not at issue. Intimate details that do not relate to the commission of the crime at issue may be deleted as indicated on the enclosed documents. Additionally, the names of certain individuals may be deleted because the context of the information reveals intimate details about their lives and because the public does not have a legitimate interest in such details about individuals when those individuals are not suspects and when the details do not relate to the crime.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-300.

Yours very truly,

*Open Government Section  
of the Opinion Committee*

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Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/bc

Enclosures: Marked documents

Ref.: ID# 6427